

REMARKS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance.

I. STATUS OF CLAIMS AND FORMAL MATTERS

Claims 48-51 are pending in this application.

The Office Action alleged that the sequences of Serrate and Delta were improperly incorporated into the application by reference. For reasons stated below, Applicants disagree; however, the sequences from WO 97/01571, WO 96/27610 and WO 92/19734 have been added to new figures 10-23 and a Sequence Listing has been provided to expedite prosecution. Please enter the additional figures and Sequence Listing.

No new matter is added by this amendment. The required statements under 37 C.F.R. §1.821 (f) and (g) follow.

Pursuant to 37 C.F.R. §1.821(g), the undersigned hereby states that this submission, filed in accordance with 37 C.F.R. §1.821(g), does not contain new matter.

Pursuant to 37 C.F.R. §1.821(f), the undersigned hereby states that the content of the paper copy and the computer readable copy of the Sequence listing, in accordance with 37 C.F.R. §1.821(c) and (e), are the same.

II. THE REJECTION UNDER 35 U.S.C. §112, 1ST PARAGRAPH, IS OVERCOME

Claims 48-51 were rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking written description.

The Office Action alleges that one of skill would not know how to make Serrate and Delta without the incorporation of their sequences into the instant application. The rejection is traversed.

Applicants disagree that the sequences must be stated in the specification in order to practice the instant invention. It is well settled law that a patent application need not teach, and preferably omits, what is well known in the art. *See, e.g., Spectra-Physics, Inc. v. Coherent, Inc.*, 827 F.2d 1524, 3 USPQ2d 1737 (Fed. Cir. 1987). That is, a patent application need only begin teaching where the art leaves off, and a patent application need not teach that which is known in the art.

WO 97/01571, WO 96/27610 and WO 92/19734, from which the Examiner is requesting sequences, were published in 1997, 1996 and 1992, respectively, and were referenced in the present application. These documents and the information contained in them was available at the time the instant application was filed, and the information contained should, therefore, not be restated in the current specification.

Although Applicants maintain that the sequences requested in the March 4, 2003 Office Action are not required, they have been added for the Examiner's convenience and to further prosecution. New figures 10-23 show the sequences and a Sequence Listing, meeting the requirements of 37 C.F.R. 1.821, are submitted herewith.

Consequently, reconsideration and withdrawal of the rejection under 35 U.S.C. §112, first paragraph, are requested.

CONCLUSION

In view of the remarks and amendments herewith, the application is in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited.

Respectfully submitted,

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